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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/519,718 | 12/30/2004 | Jiri Tomek | P70322US0 | 7569 |
| 136 7590 06/18/2007 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004 | | | EXAMINER HAGEMAN, MARK | |
| | | | ART UNIT 3653 | PAPER NUMBER |
| | | | MAIL DATE 06/18/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|-----------------------------|--|
| Office Action Summary | Application No. 10/519,718 | Applicant(s) TOMEK, JIRI | |
| | Examiner Mark Hageman | Art Unit 3653 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>3-22-2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 11" mentioned in paragraph 14 line 13. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 1 and 2 are process claims but fail to positively set forth the process steps in way that allows one to readily ascertain the metes and bounds of the claims. It

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difficult to discern what language is directed to the actual method steps and what language is descriptive or functional without positively providing a method step.

Examiner suggests amending the claim in way using the gerund (or "ing" ending) form of the verbs with each process step set forth on separate line in order to clearly and definitely claim the process steps. For example claim 2 might begin "the method of cleaning pollen according to claim 1 further comprising the step of regulating the amount of sucked contaminated pollen....."

5. Claim 3 uses a combination of closed ended and open ended language, which renders the claim and those claims depending therefrom indefinite. The claim starts "a pollen cleaning device consisting of..." which is understood and accepted to be closed ended but then the claim goes on to say "a filter comprising..." which is understood to be open ended. Therefore for it is not possible to determine if the claim is open or closed ended and if other not claimed elements could be present.

6. The phrase "comprising by that" is used in multiple claims. It is unclear what this language means. In some claims it appears to have a "further comprising" meaning such that it is followed by more claimed elements. In other claims it appears to be have a "wherein" meaning such that the language following the phrase is descriptive and provides details or functional information related to a previously recited element as opposed to reciting new structural limitations. Amendments or clarifications are necessary to render the claim limitations definite.

7. Claim 8 recites the limitation "the work board" in line 5. There is insufficient antecedent basis for this limitation in the claim. It appears claim 8 should depend from claim 7 rather than claim 3.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 5,593,479 to Frey et al. Frey discloses a method of cleaning pollen from mechanical impurities, spores and microorganisms, comprising by that the contaminated pollen is sucked to airflow (c1 lines 50+) through an insulant sieve (30) , while the clean pollen particles fall into a filter (70) where they are caught, and the impurities stick on the sieve.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey in view of US 6,185,787 to Waeber et al. Frey discloses a pollen cleaning device

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consisting of a sucking unit (50) with a filter comprising by that at least one insulant sieve (30) arranged before the filter input. Frey does not disclose at least one throttle flap or that the amount of sucked contaminated pollen and speed of its sucking to the air flow is regulated by a throttle flap placed before the sieve. Waeber discloses at least one throttle flap (21) or that the amount of sucked contaminated pollen and speed of its sucking to the air flow is regulated by a throttle flap placed before the sieve for the purpose of adjusting the air quantity (c6 lines 38+).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have modified Frey to include at least one throttle flap or that the amount of sucked contaminated pollen and speed of its sucking to the air flow is regulated by a throttle flap placed before the sieve, as taught by Waeber, for the purpose of adjusting the air quantity.

Re claim 4 Frey discloses that it is arranged inside an underpressure chamber (20) equipped with an underpressure ventilator (50), while the outlet of the sucking unit is led outside the underpressure chamber (54).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Hageman whose telephone number is (571) 272-3027. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCH



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